



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XD059]

#### **Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Space Force Operations at Vandenberg Space Force Base, California**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application for regulations and letter of authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the U.S. Space Force (USSF) for authorization to take small numbers of six species of marine mammals, by Level B harassment only, incidental to rocket and missile launches and other base operations at Vandenberg Space Force Base (VSFB). USSF is requesting a 5-year Letter of Authorization for takes resulting from these activities (2024-2029). Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Space Force's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Space Force's application and request.

**DATES:** Comments and information must be received no later than *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to *ITP.Tucker@noaa.gov*.

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Steven Tucker, (301) 427-8401. An electronic copy of the USSF application may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please email the contact listed above.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking

will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### **Summary of Request**

On November 2, 2022 NMFS received an application from the U.S. Space Force, Vandenberg Space Force Base requesting authorization for taking of marine mammals by Level B harassment incidental to base operations. Following extensive exchange of information between NMFS and the applicant, a revised application was submitted on May 25, 2023. The revised application was deemed adequate and complete on May 26, 2023.

Launch sites at VSFB serve as the point of origin for launches conducted by Department of Defense, National Aeronautics and Space Administration, and commercial entities. All launch operations would occur at VSFB, potentially resulting in impacts to

marine mammals at VSFB (as a result of launch noise and visual stimuli) and at the Northern Channel Islands (as a result of noise from sonic booms). Therefore, USSF requests authorization to incidentally take marine mammals.

### **Specified Activities**

U.S. Space Force's request describes activities that are conducted to meet mission requirements for VSFB. The base is the primary launch facility on the west coast of the United States for placing commercial, government, and military satellites into polar orbit on unmanned launch vehicles, and for the testing and evaluation of intercontinental ballistic missiles (ICBMs) and sub-orbital target and interceptor missiles. Related operations include surface launches of space vehicles and recovery of first stage boosters, silo launches of intercontinental ballistic missiles, test launches related to the Ground Based Strategic Defense program (GBSD), operation of various aircraft including unmanned aerial systems, and harbor operations. The USSF anticipates an incremental increase in the number of launches, culminating with 15 missile and 110 rocket launches in 2028, the last full calendar year that an authorization would be in effect.

A full description of these activities including descriptions of the types of vehicles, estimated number of launches per year and proposed marine mammal monitoring, is provided in the USSF's request.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning U.S. Space Force's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by U.S. Space Force, if appropriate.

Dated: June 9, 2023.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

[FR Doc. 2023-12788 Filed: 6/14/2023 8:45 am; Publication Date: 6/15/2023]